

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 06-04 (1) (RHK/JSM)

Plaintiff,

ORDER

v.

Giber Lopez Cisneros,

Defendant.

In a document entitled “Response to Court Order (Doc. No. 31), Petitioner now asserts that his “sentence should have fallen under 120 months because [he] qualifies for a safety valve and his attorney should have appealed this issue regardless of the United States Attorney’s Disagreement.” It is clear, however, from the record that Petitioner did not qualify for the safety valve—he has three criminal history points which, without more, makes him ineligible for the safety valve.

We review his “Response” as a Motion to Reconsider the Court’s November 17th Order; for the reasons stated above, said Motion (Doc. No. 31) is **DENIED**.

Dated: January 6, 2010

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge